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SALES TAX AT PROPOSED FOXWOODS RESORT OUTLET MALL

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You asked whether (1) retailers located at the proposed Foxwoods Resort outlet mall would collect and remit sales tax to the state and (2) a retailer with a store in such a mall would have nexus with Connecticut for sales tax purposes.

SUMMARY

According to the Department of Revenue Services (DRS), assuming the proposed outlet mall is located within the Mashantucket Pequot's "Indian country," its retail tenants would collect and remit Connecticut sales tax for taxable sales to non-tribal members only. Sales by retail tenants to enrolled tribe members would not be subject to Connecticut sales tax. "Indian country" is a term used in federal law; it includes federal Indian reservations and can include other land.

If, on the other hand, the outlet mall is located outside of Indian country, all retail sales, to tribe members and non-members, would be subject to the sales tax. This is consistent with [1995](#) and [2002](#) DRS rulings concerning sales to and by federally recognized Indian tribes in the state.

If a retailer is "engaged in the business of making retail sales" in Connecticut, it is said to have "nexus" here and thus must collect and remit state sales tax ([CGS § 12-407\(a\)\(12\)](#)). According to DRS, retailers at the proposed outlet mall would have nexus with the state for sales tax

purposes because the Indian country is within state boundaries. This means that they would be required to collect and remit state sales tax on all of their taxable sales in Connecticut.

DRS RULINGS CONCERNING SALES TO AND BY FEDERALLY RECOGNIZED TRIBES IN THE STATE

Sales to Tribes or Enrolled Members

DRS has ruled that sales or rental of goods directly to federally recognized Indian tribes in Connecticut or their enrolled members are federally preempted and exempt from sales tax under [CGS § 12-412\(2\)](#) when title to the property passes within Indian country. However, these sales are taxable if (1) title to the property passes in Connecticut outside of Indian country or (2) the tribe or its members make the purchase within Indian country with the intention of using it outside of Indian country and then so use it.

Sales by Tribes to Non-Members

DRS has ruled that sales of tangible personal property by the tribe to non-members within Indian country are subject to state sales tax if the items sold are produced outside Indian country. However, sales of meals, lodging, and entertainment within Indian country are not subject to state sales, hotel, or admissions taxes because their value is generated and consumed within Indian country (DRS Rulings 95-11 and 2002-3).

RP:km